

**AMENDMENTS TO THE DRAWINGS**

Figure 7 is amended to show steps of error handling and re-calculation.

Attachment: Replacement Sheet

Attachment: Replacement Sheet  
Annotated Sheet

**REMARKS**

This amendment, filed in reply to the Office Action dated August 28, 2007, is believed to be fully responsive to each point of the rejection raised therein. Accordingly, favorable reconsideration and allowance of the subject application are respectfully requested.

Claims 1, 3-16 are all the claims pending in the application. Claim 2 is cancelled.

Claims 10-16 are newly added. No new matter is added.

**Election/Restrictions**

Claims 1-7, drawn to an automatic analyzer apparatus, were elected for examination.

Claims 8-9 are withdrawn from examination. Applicant reserves the right to file a Divisional Application directed to non-elected claims.

**Drawings**

The drawings are objected to under 37 C.F.R. § 1.83(a). Applicant is filing herewith a Replacement Drawing Sheet. Applicant respectfully requests the withdrawal of the objection.

**Claim Objection**

The Examiner objected to claims 3 and 4 because the claims are dependent upon claim 1, but separated by independent claim 2. Claim 2 is now cancelled. Therefore, Applicant respectfully requests the withdrawal of this objection.

**Claim rejection under 35 U.S.C. § 112**

Claims 1-7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. The claims are amended to overcome the rejection. Applicant respectfully requests the withdrawal of the rejection.

### **Claim Rejections under 35 U.S.C. § 102**

Claims 1-3, 5 and 6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Saito et al. (EP 0 562 425 A1). Applicant respectfully traverses this rejection.

One aspect of the claimed invention relates to:

An analysis apparatus for spotting a sample on a dry analysis element and analyzing the sample for its composition by measurement and calculation based on analytical information corresponding to the dry analysis element information, the analysis apparatus comprising:

a reading device for reading out the dry analysis element information attached to the dry analysis element,

wherein the dry analysis element information attached to the dry analysis element includes at least reagent lot information for correcting reagent-lot-specific variations; and

wherein the analysis apparatus further comprising an error handling processing device wherein said error handling processing device has a function to **calculate the analysis result based on pre-obtained analytical information corresponding to the reagent lot and add a caution mark to the analysis result to attract attention, when the reagent lot information is not read out successfully.**

On the other hand, Saito teaches an assay system for analysis slides that uses a magnetic card which is contained in each slide package in order to input information required for determination. The magnetic card includes “fixed information” and information which may be varied, including a lot number used for correction. See Saito, col. 7, lines 14-32. Further, Saito teaches “inappropriate correction can be prevented, if the bar code of each analysis slide contains a number identifying the kind of the variable information and when a number different from the number previously read in and stored is found, an alarm signal is produced.” See Saito, col. 10, lines 21-26.

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102 (e) only if each of the elements as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. See the Manual of Patent Examination and Procedures (MPEP) section 2131.

Here, Saito fails to teach all the limitations of the claimed invention as described in claim 1. For example, Saito fails to teach or suggest, *inter alia*, that “the analysis apparatus has an error handling function to calculate the analysis result based on pre-obtained analytical information corresponding to the reagent lot and add a caution mark to the analysis result to attract attention, when the reagent lot information is not read out successfully.” Although Saito teaches generating an alarm to avoid inappropriate corrections, Saito does not teach “**adding a caution mark to the analysis result ...when the reagent lot information is not read out successfully.**” Therefore, Applicant respectfully submits that Saito does not anticipate the claimed invention as described in claim 1. Applicant also respectfully requests the withdrawal of the rejection and earnestly solicits the allowance of this claim.

Claims 1-3, 5, and 6 are rejected under 35 U.S.C. § 102(e) as being anticipated by Hiramatsu et al. (U.S. Pub. No. 2004/0086429; hereinafter “Hiramatsu”). Applicant respectfully traverses this rejection.

Hiramatsu teaches a bar code including information designating the lot and the date of manufacture. See Hiramatsu, Abstract. Hiramatsu teaches determining whether

or not the measurement is carried out within the expiration date of the reagent cartridge...in the case where the measurement is past the expiration date, the CPU outputs a warning message on the display and the printer. See Hiramatsu, paragraph [0107].

Hiramatsu, however, does not teach, *inter alia*, “adding a caution mark to the analysis result...when the reagent lot information is not read out successfully”, as recited in claim 1. It is clear in figure 6 and figure 7 of Hiramatsu that the system never gets to carry out the measurement when either the measurement condition is not registered or the measurement date is not within the expiration date.

Hiramatsu suffers from the same deficiency as in Saito discussed above. Similar to Saito, Hiramatsu teaches issuing a warning when certain read input data differ from an expected value. However, the Hiramatsu does not teach the limitation recited in the claim, e.g. “the analysis apparatus has an error handling function to calculate the analysis result based on pre-obtained analytical information corresponding to the reagent lot and add a caution mark to the analysis result to attract attention, when the reagent lot information is not read out successfully.”

Therefore, Applicant respectfully submits that Hiramatsu does not anticipate the claimed invention and requests the withdrawal of rejection. Applicant also earnestly solicits the allowance of claim 1.

Claims 2, 3, 5, and 6 are patentable at least by virtue of their dependency on claim 1 and for analogous reasons as discussed above regarding claim 1.

### **Claim Rejections 35 U.S.C. § 103**

Claim 4 and 7 rejected under 35 U.S.C. § 103(a) as being unpatentable over Saito or Hiramatsu in view of Lappe (U.S. Patent no. 5,902,982). Applicant respectfully traverses this rejection.

Claims 3 and 7 are patentable at least by virtue of their dependency on claim 1. In addition, Lappe does not remedy the deficient teachings of Saito and Hiramatsu. Lappe only pertains to using dot array pattern to provide a machine readable assaying indicia. The combination propose by the Examiner would only result in a system capable of reading the input information, e.g. dot array pattern and when there is no match the system would issue a warning or alarm. However, the combination would not teach an “an error handling function **to calculate the analysis result based on pre-obtained analytical information corresponding to the reagent lot and add a caution mark to the analysis result to attract attention, when the reagent lot information is not read out successfully.**” Therefore, the combination of Saito and Lappe or Hiramatsu and Lappe would not have resulted or rendered obvious the claimed invention. Thus Applicant respectfully requests the withdrawal of the rejection and earnestly solicits the allowance of the claims.

### **Newly added claims**

Claim 10 is patentable at least by virtue of its dependency on claim 1. Claim 11 pertains to a method carrying out the invention of claim 1.

Claim 11 is patentable for analogous reasons as set forth above regarding claim 1.

Claims 12 and 13 are patentable at least by virtue of its dependency on claim 11.

Claims 14-16 are written in means-plus-function language. The claims recite similar limitations as in claim 1. Therefore, they are patentable for analogous reasons as discussed above regarding claims 1.

### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

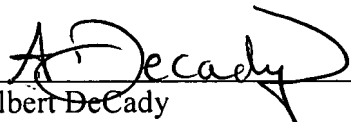
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**23373**

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FIG.7

